

ORIGINAL

DIVISION OF CONSUMER ADVOCACY  
Department of Commerce and  
Consumer Affairs  
335 Merchant Street, Room 326  
Honolulu, Hawaii 96813  
Telephone: (808) 586-2800

PUBLIC UTILITIES  
COMMISSION

2009 AUG -6 P 3:13

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )

HAWAIIAN BEACHES WATER )  
COMPANY, INC. )

DOCKET NO. 2009-0161

For review and approval of rate increases; )  
revised rate schedules. )

**DIVISION OF CONSUMER ADVOCACY'S**  
**PRELIMINARY STATEMENT OF POSITION**  
**REGARDING COMPLETENESS OF APPLICATION**

Pursuant to Hawaii Administrative Rules ("HAR") § 6-61-62, the Division of Consumer Advocacy ("Consumer Advocate") informs the Commission that the application filed by Hawaiian Beaches Water Company, Inc. ("HBWC" or "Applicant") on July 17, 2009 in the above docketed matter appears to comply with the requirements of Subchapters 6 and 8 of the Rules of Practice and Procedure in Chapter 61 of the Commission's HAR. For the Commission's convenience, the Consumer Advocate is providing Attachment 1, which is a checklist of the various requirements understood to support a finding of a complete rate proceeding application. While the Consumer Advocate has relied on this checklist internally for some time, the Consumer Advocate

is providing this document to help support the Consumer Advocate's findings regarding completeness as well as to help facilitate the Commission's review.

The Consumer Advocate notes, however, that contrary to HAR § 6-61-75(a)(7) HBWC did not specifically state in its application whether it had paid dividends during the five previous calendar years. The Consumer Advocate notes that the Company has reported retained deficit or stockholders' deficit in both the instant proceeding and the last rate proceeding of HBWC's predecessor (i.e., Miller and Lieb Water Company, Inc.) in Docket No. 2006-0442. HBWC's retained earnings balance, which at December 31, 2008 was approximately -\$125,248.<sup>1</sup> Thus, the Consumer Advocate surmises that HBWC has not paid any dividends during the five year period. During discovery, the Consumer Advocate will confirm its understanding.

The Consumer Advocate also notes that the Company did not provide all the details of the mortgages and security interest identified on Exhibit HBWC 2, Schedule 3 (e.g., date of execution of agreement, amount of indebtedness) as set forth in HAR § 6-61-75(3). The Consumer Advocate, however, notes that the financial documents associated with these transactions were filed by the Company in a June 13, 2007 letter with the Commission in Docket No. 2006-0442. The Commission approved these financial arrangements in Order No. 23513 filed June 27, 2007.<sup>2</sup>

To facilitate regulatory review in the future, the Applicant should include the omitted information referenced above in its application.

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<sup>1</sup> Application, Exhibit HBWC 2, Schedule 4, page 6.

<sup>2</sup> The Consumer Advocate notes that although Exhibit HBWC 2, Schedule 5 discusses an unsecured promissory note to Balonne Plains Pty Ltd. ("Balonne"), it is not clearly identified on Exhibit HBWC 2, Schedule 6. The Consumer Advocate notes that it will pursue issues with the Balonne note in information requests.

In addition to the above, the Applicant requests a modification of the requirement set forth in HAR § 6-61-75(b)(1) to allow the submission of unaudited financial statements. As justification for its request, Applicant states that:

As a small utility with annual revenues less than \$2,000,000, Applicant does not have audited annual financial reports. To have one prepared solely for this Application would delay the filing and would unjustly impose additional financial burdens on Applicant.<sup>3</sup>

The Consumer Advocate does not object to the Commission's approval of the requested waiver of HAR § 6-61-75(b)(1) on the condition that Applicant make available for review all documentation supporting Applicant's financial statements, including all accounting books and records.

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<sup>3</sup> Application, page 10.

Putting aside the appropriateness of the substance of the items provided, to the extent that compliance with the Commission's Rules of Practice and Procedure in Chapter 61, Subchapters 6 and 8 is the standard, the Consumer Advocate does not object to the completeness of the application.<sup>4</sup>

DATED: Honolulu, Hawaii, August 6, 2009.

Respectfully submitted,

By Catherine P. Awakuni  
CATHERINE P. AWAKUNI  
Executive Director

DIVISION OF CONSUMER ADVOCACY

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<sup>4</sup> Pursuant to HRS § 269-16(f)(3), the Commission is to make every effort to complete its deliberations and issue a proposed Decision and Order within six months from the date on which a utility having less than \$2 million in operating revenues files a completed application, provided the parties strictly adhere to a procedural schedule established by the Commission and no party is permitted to intervene.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S PRELIMINARY STATEMENT OF POSITION REGARDING COMPLETENESS OF APPLICATION** was duly served upon the following parties, by personal service, hand delivery, and/or U.S. mail, postage prepaid, and properly addressed pursuant to HAR § 6-61-21(d).

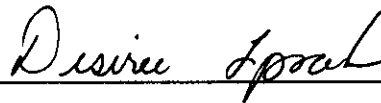
MS. KATHERINE M. PRESCOTT  
MR. MARK J. PRESCOTT  
P.O. Box 22  
Pahoa, Hawaii 96778

1 copy  
by U.S. mail

MICHAEL H. LAU, ESQ.  
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Mori-hara Lau & Fong LLP  
841 Bishop Street  
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1 copy  
by hand delivery

DATED: Honolulu, Hawaii, August 6, 2009.

  
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# **HAWAIIAN BEACHES WATER COMPANY, INC. APPLICATION CHECKLIST**

HAWAII ADMINISTRATIVE RULE	CITE SOURCE
Filings meet deadlines §6-61-15	<input checked="" type="checkbox"/> Noted
Format for pleadings/documents meet guidelines §6-61-16	<input checked="" type="checkbox"/>
Verification by at least one applicant/complainant §6-61-17	<input checked="" type="checkbox"/> Verified by Michael H. Lau, atty.
Two copies received by CA §6-61-18	<input checked="" type="checkbox"/> Noted
Defective documents §6-61-19	<input checked="" type="checkbox"/> Noted
Amended pleadings §6-61-20	<input checked="" type="checkbox"/> N/A
Service of process §6-61-21	<input checked="" type="checkbox"/> Noted
Computation of time §6-61-22	<input checked="" type="checkbox"/> Noted
Enlargement §6-61-23	<input checked="" type="checkbox"/> Noted
State clearly and concisely authorization or relief sought §6-61-74	<input checked="" type="checkbox"/> See requested relief summarized on pages 10-11 of application
Cite appropriate statutory provision §6-61-74	<input checked="" type="checkbox"/> HRS §269-16, HAR §6-61
Legal name, location of principal place of business. If corporation, trust association or other organization, cite state under whose laws applicant was organized. §6-61-74	<input checked="" type="checkbox"/> Application, page 3
Name, title, and address for correspondent §6-61-74	<input checked="" type="checkbox"/> Application, page 2
If ex parte action or relief pending full hearing sought, justification of the request §6-61-74	<input checked="" type="checkbox"/> N/A
Financial statements should be latest available §6-61-75	<input checked="" type="checkbox"/> Request to use unaudited financial statements on page 10 of the application; 2008 calendar year and 6 months ending 6/30/09
Amount and kinds of stock authorized by articles of incorporation and amount outstanding §6-61-75	<input checked="" type="checkbox"/> Exhibit HBWC 2, Schedule 1
Terms of preference of preferred stock, whether cumulative or participating or on dividends or assets, or otherwise §6-61-75	<input checked="" type="checkbox"/> None

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## HAWAIIAN BEACHES WATER COMPANY, INC. APPLICATION CHECKLIST

Brief description of each security agreement, mortgage, and deed of trust on applicant's property, showing date of execution, debtor and secured party, mortgagor, and mortgagee, and trustor and beneficiary, amount of indebtedness, together with any sinking fund provisions §6-61-75	<input checked="" type="checkbox"/> Exhibit HBWC 2, Schedule 3. Note: Financial document for mortgage and security interest filed by Company in a June 13, 2007 in Docket No. 2006-0442. Approved by Commission in D&O 23513.
Amount of bonds authorized and issued, giving name of public utility or parent company which issued same, describing each class separately, and giving date of issue, par value, rate of interest, date of maturity and manner secured, together with amount of interest paid thereon during last calendar year and any special provisions and interest coverage §6-61-75	<input checked="" type="checkbox"/> None. Exhibit HBWC 2, Schedule 6.
Each note outstanding, giving date of issue, to whom payable, amount, date of maturity, and rate of interest, together with amount of interest expense thereon during last calendar year §6-61-75	<input checked="" type="checkbox"/> Exhibit HBWC 2, Schedule 6 and Exhibit HBWC 2, Schedule 5, Note 4. Note: Inquire about Balonne unsecured promissory note in information requests.
Other indebtedness, giving same by classes and describing security, if any, with brief statement of devolution or assumption of any portion of indebtedness upon or by any person or corporation if the original liability has been transferred, together with amount of interest expense thereon during last calendar year §6-61-75	<input checked="" type="checkbox"/> Exhibit HBWC 2, Schedule 5, Note 4
Rate and amount of dividends paid during the five previous calendar years and the year-end amount of capital stock §6-61-75	<input type="checkbox"/> Not provided. Note: Applicant has had deficit of its retained earning balance, which at December 31, 2008 was approximately -\$125,248.
Audited balance sheet, including any pertinent notations and explanations, as of the end of last calendar year §6-61-75	<input checked="" type="checkbox"/> Request to use unaudited financial statements on page 10 of the application
Income statement covering period from close of last audited balance sheet to date of latest available balance sheet §6-61-75	<input checked="" type="checkbox"/> Exhibit HBWC 2, Schedule 5, page 3
For CPCN, pro forma income statement for the 12 months following the month in which application is filed and a pro forma balance sheet as of end of those 12 months §6-61-75	<input checked="" type="checkbox"/> N/A
Info and data on currently effective rates, fares, tolls, rentals, or charges that are proposed to change or the classification, contract, practice, or rule to be altered. §6-61-86	<input checked="" type="checkbox"/> Exhibit HBWC 4
Info and data on proposed changes, justification for proposed changes, proposed rate structure, and the costs and other factors considered in proposing the change. §6-61-86	<input checked="" type="checkbox"/> See, generally, application

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**HAWAIIAN BEACHES WATER COMPANY, INC. APPLICATION CHECKLIST**

General description of applicant's property and equipment. §6-61-88	<input checked="" type="checkbox"/> Exhibit HBWC 1
Total increase requested expressed in \$ and %. If different classes of service affected, express each class in \$ and %. §6-61-88	<input checked="" type="checkbox"/> Application, page 4
Summary of estimated earnings (rate of return) on depreciated rate base for 12-month period (test year). Adjusted/estimated test year results shall be consistent reflecting normalized condition. §6-61-88	<input checked="" type="checkbox"/> Exhibit HBWC 6
Test year shall be a forward test year. Test year for application filed in first six months shall be from July 1 of the same year through June 30 of following year OR if filed in last six months, test year shall be Jan 1 through Dec 31 of following year. §6-61-88	<input checked="" type="checkbox"/> Application, page 4 Note: Application filed July 17, 2009
Written direct testimony supporting exhibits and justification for increase. §6-61-88	<input checked="" type="checkbox"/> Exhibit HBWC-T-100

Note: This form is for a public utility with annual gross operating revenues less than \$2,000,000.

August 6, 2009